

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7038 OF 2004

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders.

Court's or Judge's orders

Mr. P.B. Shah for Petitioner.

Mr. Vinod Joshi, Sr. Counsel for
Respondent No. 1.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 02, 2005
P.C.

. Respondents were served in the
proceedings on August, 2004. Inspite of
that, they seek time to file reply.

Considering earlier judgments of this
court, time to file reply rejected.

. Rule. Herd forthwith.

. Petitioner was student studying in the
Armed Forces Medical College. He had given
a bond like other students to serve in the
defence services, if he was found medically
fit. In the instant case, during his
course of studies, he met with an accident
on account of which his right leg was
broken. He was operated and hospitalised

for four months. During the period of training he was declared medically unfit by the Medical Examination Board of the Respondent on 18.4.2002. The Petitioner was made non-service liability and on such declaration a sum of Rs. 3.75 lacs. were demanded from the Petitioner as per the bond. His mother made an appeal setting out reasons as to why the amount should be waived. The Respondent on failure of the Petitioner to pay the amount are not permitting the Petitioner to join as Intern. The results of the Petitioner were declared on 7.8.2004 and he has secured 60.60 % marks. It is the grievance of the Petitioner that till date there is no response from the respondents and if no objection is not given, he would not be in a position to take admission for Internship in any medical college in India thereby affecting his career. Various grounds have been taken. Reliance is placed on the judgements of this court. It is also submitted that the Petitioner is ready and willing to serve in the Armed Forces if he is given opportunity.

. Similar matters of declaring candidates unfit on account of medical problems had come up before this court being Writ

Petition No. 383 of 2002, decided on 18.11.2002, Writ Petition No. 4206 of 11997 decided on 22.4.2004, as also writ Petition No. 5088 of 2004 decided on 24.6.2004. In all these judgments, this court has taken a view that in case of any of the candidates are declared medically unfit to serve in the Armed Forces and it was not voluntary or on account of self infliction, or a disease over which he had no control the amount has been reduced from Rs. 3 lacs to Rs. 1 lac.

. In the instant case, it is true the Petitioner met with an accident. Merely because he met with accident, it cannot be said that this was self-inflicted as by its very connotation the expression is 'accident'. In that light of that matter, we do not find any reason to place the case of the Petitioner differently from the other cases, considering that even now the petitioner is ready and willing to serve with the Armed Forces if given an opportunity. In the light of that the following order :

. Rule made absolute in terms of Prayer Clause (b), on petitioner's depositing with respondent, a sum of Rs.1 lac. within two

weeks from today.

(F.I. REBELLO,J.)

(S.P.KUKDAY,J.)